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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,679	10/14/2003	David G. Johnson	057025.00019	7048

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EXAMINER

PASCUA, JES F

ART UNIT	PAPER NUMBER
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3782

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/29/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/29/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com
akron-docket@hotmail.com

Office Action Summary

Application No.

10/685,679

Applicant(s)

JOHNSON, DAVID G.

Examiner

Jes F. Pascua

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-13 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-8, 10-13 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The written specification, as originally filed, fails to provide an adequate written description of the tubular multi-ply blank having a "bottom closed by folding portions of the blank and forming an adhesively secured quadrilateral". Although Fig. 3 may show a quadrilateral, there is nothing in the four corners of the original written specification and drawings to indicate that the bottom has been formed by folding portions of the blank and secured in a quadrilateral with *adhesive*. This is a new matter rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 4, and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 3,038,651 to Cloudsley.

Regarding claim 4, the outer and inner layers of Cloudsley have comparable size and shape. Furthermore, Cloudsley discloses the inner and outer layers being offset from each other with respect to their perforations. See column 3, lines 8-10.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 3, 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloudsley.

Cloudsley discloses the claimed invention, especially the inner layer showing the goods contained within the bag. However, it is unclear if the inner layer of Cloudsley is transparent or translucent. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use transparent or translucent material for the inner layer of the Cloudsley bag, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

7. Claims 1-3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,868,069 to Munson and U.S. Patent No. 2,158,755 to Hodgdon et al.

Munson discloses the claimed invention except that Munson shows the window formed from separate pieces of outer layers instead of a cut through a single outer layer. Hodgdon et al. shows that a window cut through a single outer layer is an equivalent structure known in the art. Therefore, because these two window forming means were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute a window formed from separate outer layers for window cut through a single outer layer as taught by Hodgdon et al.

8. Claims 1, 2, 4-6, 10, 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,189,174 to Hohl and U.S. Patent No. 1,916,854 to Bischoff.

Hohl discloses the claimed invention except that Hohl shows a flat bag bottom instead of a quadrilateral bag bottom. Bischoff shows that a square (i.e., quadrilateral) bag bottom is an equivalent structure known in the art. Therefore, because these two bag bottoms were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the flat bag bottom of Hohl for a square bag bottom.

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9. Claims 7, 8, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohl and Bischoff, as applied in claims 1 and 4, and in further view of U.S. Patent No. 3,291,374 to Lepisto et al.

Hohl and Bischoff each disclose the claimed device, as discussed above, except for the outer layer comprising at least two plies with each ply being offset from another and adhered to itself. Lepisto et al. discloses that it is known in the art to provide an analogous bag with an outer layer comprising at least two plies with each ply being offset from another and adhered to itself. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the outer layer of Hohl with at least two plies with each ply being offset from another and adhered to itself as taught by Lepisto et al. in order that the seam portions where each ply is adhered to itself will not overlie each other.

Response to Arguments

10. Applicant's arguments with respect to claims 1-8, 10-13 and 19 have been considered but are moot in view of the new grounds of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jes F. Pascua
Primary Examiner
Art Unit 3782

JFP